

SENATE BILL 2565

By Haun

AN ACT to amend Tennessee Code Annotated, Section 6-51-102 and Section 6-51-108, relative to the requirements and enforceability of municipal plans of services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 6-51-102(b), is amended by designating the existing language as subdivision (b)(1) and by adding the following:

(2) A plan of services shall be insufficient and an annexation by ordinance shall not proceed unless the plan proposes that the municipality will provide the following services, at a minimum, within thirty (30) days of annexation: police protection, fire protection, and solid waste disposal; furthermore, the plan will be insufficient and annexation by ordinance shall not proceed unless the plan proposes that the municipality will provide the following services, at a minimum, within five (5) years of annexation: water service, electrical service, a sanitary sewage system, and road and street construction and repair. The provisions of this subdivision shall not be construed as limiting any additional services which the municipality may choose to propose in the plan of services nor shall it be construed as requiring a municipality to provide these services in an area which it proposes to annex if such services are not currently provided to residents within the existing boundaries of the municipality.

(3) Notwithstanding any other provision of law to the contrary, all services included in the plan of services must be provided throughout the annexed territory within

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five (5) years from the date such territory is annexed. If all such services are not provided within such period of time, then the limits of the annexing municipality shall be contracted to exclude that portion of the annexed territory wherein all such services are not so provided, unless a petition is filed by a majority of the residents and property owners in such territory requesting to remain within the corporate limits of such annexing municipality. If the corporate limits of the municipality are contracted for failure to provide services, each resident in that area shall be refunded a portion of any municipal property taxes that were paid by the resident. Residents shall be refunded a percentage of taxes paid that corresponds to the percentage of services proposed in the plan which were not provided by the municipality. The percentage shall be determined by estimating the total cost of services proposed in the plan and subtracting the cost of services actually provided.

SECTION 2. Tennessee Code Annotated, Section 6-51-108(b), is amended by deleting the second and third sentences of that subsection in their entirety and replacing them with the following language:

“Any changes in the plan of services shall be incorporated in a resolution approved by the governing body of the municipality. Provided, however, in any area annexed by ordinance pursuant to § 6-51-102, if a petition protesting the changes to the plan of services, signed by the majority of the registered voters living in the affected area, is filed with the chief executive officer of the municipality within thirty (30) days of the passage of such resolution, such changes shall be void and of no effect. Any owner of property in an annexed area, whether annexed by ordinance or by referendum, to which a plan and progress report are applicable may file a suit for mandamus to compel the governing body to comply with the publication, notice, and public hearing requirements of this subsection.”

SECTION 3. Tennessee Code Annotated, Section 6-51-108, is further amended by adding the following as a new, appropriately designated subsection:

( ) Notwithstanding any provision of the law to the contrary, residents of, and persons owning property in, territory which has been annexed by ordinance pursuant to § 6-41-102 to which a plan of services is applicable may file a suit for mandamus to compel the governing body to provide the services promised in the plan.

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.